

**REMARKS**

The Examiner has indicated that only nine (9) claims are pending in the application. This is not correct. Applicant submitted a preliminary amendment on June 25, 2007, in which claims 3-7 were amended and new claims 10-23 were added. As such, claims 1-23 were pending prior to examination. However, in light of the rejection of claims 1-3 under 35 USC 112, applicant hereby amends claims 1-6, cancels claims 7-23 and substitutes herewith new claims 24-29 with claims 24 and 25 dependent upon claim 1 and claim 26 drawn to the method claimed in the pending claims 19-21, now canceled.

The Examiner has objected to claims 4-9 as being in improper form. Applicant has amended claims 4-6 and has canceled claims 7-9. The amendment to claims 4-6 removes multiple dependency and accordingly, the objection to the claims should be withdrawn. Accordingly, amended claims 1-6 and new claims 24-29 are now pending.

The Examiner has rejected claims 1-3 under 35 USC 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended claims 1-3 to delete all of the reference numeral limitations and to remove the word "double" before the term "adjustable joint" which was considered unclear by the Examiner. The claims have otherwise been substantially revised to satisfy all of the requirements of 35 USC 112, second paragraph. Accordingly, the rejection under 35 USC 112 should now be withdrawn. The same is true for claims 2 and 3.

The rejection of claims 1 and 3 under 35 USC 103(a) as being unpatentable over

applicants prior art (APA) in view of Mitchell (USP 4,561,062) is respectfully traversed.

The alleged "prior art" reference US 2008/0283510 does not teach a mounting device comprising a supporting member, a light emitter, a receiver for the light emitted from the emitter and an arm having opposite ends with the light emitter and receiver mounted on each opposite end of the arm. Moreover, the mounting device of claim 1, as now amended, is totally remote from the description in US '510 A1. Accordingly, US2008/0283510 is not considered prior art. The secondary reference Mitchell does not pertain to Shadowscopy and does not teach a receiver as being part of a mounting device for receiving light emitted from an emitter with the light emitter and receiver mounted at each opposite ends of the arm. Moreover, Mitchell does not teach a mounting device having an adjustable joint connecting the arm to the supporting member to allow for rotation of the arm with respect to the supporting member about two axes of rotation perpendicular to each other and to a main path of light from the emitter in the form of a light beam with one of said two axes of rotation intersecting the light beam. Accordingly, claim 1, as amended, is clearly patentable over Mitchell taken alone or in combination with the alleged "prior art" in US 2008/0283510.

Claims 2 and 3 depend from claim 1 and are therefore believed patentable for the same reasons as given above. However, the Examiner has further rejected claims 2 and 3 as being unpatentable over the alleged "prior art", in view of Mitchell and further in view of Kosaka et al (USP 6,024,044).

Applicant wishes to point out that claims 2 and 3 have been completely revised. Claim 2 now teaches the main path as being part of the beam of light from the emitter

having a greater cross-section than other parts of the beam. This is not taught in any of the cited references. Claim 3 has also been totally amended to specify the light from the emitter as being monochromatic and claims a filter provided on the beam between the main path and the receiver of light with the filter being transparent to light and opaque to other optical wavelengths. Claim 3, as amended, is clearly not taught in any of the references cited by the Examiner. Accordingly, the rejection of claims 2 and 3 under 35 USC 103 should be withdrawn.

New claim 26 is a method for monitoring a scene using a monitoring device having all of the limitations of claim 1, which comprises the steps of emitting light from the emitter as a beam having a main path of light intersecting at least one of the two axes of rotation at an angle perpendicular thereto, imparting oscillations to the arm about the two axes of rotation and repeatedly measuring parameters of the scene. The method of claim 26 is clearly not taught in any of the references cited by the Examiner.

More particularly, the reference Mitchell is not related to a device in which light is emitted so that optical observations or measurements may be made but is instead directed to a diffractometry device in which X-rays are used and has little relevance to the method of the subject invention. Claims 27-29 depend from claim 26.

For all of the above reasons, claims 1-6 and new claims 24-29 are clearly patentable over the cited references taken individually or in combination.

Reconsideration and allowance of claims 1-6, 24-29 is respectfully requested.

Respectfully submitted,

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**CERTIFICATE OF TRANSMISSION**

I hereby certify that this Amendment is being submitted to the: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 via EFS-Web on November 3, 2011.

  
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